

RECEIVED

APR 16 1996



FCC - COMM

**CONTINENTAL REALTY CORPORATION**

17 WEST PENNSYLVANIA AVENUE, TOWSON, MARYLAND 21204-5096

April 10, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RE: Preemption of Local Zoning Regulation of Satellite Earth Stations IB Docket No. 95-59

Dear Mr. Caton:

We write in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). We enclose six (6) copies of this letter, in addition to this original.

Continental Realty Corporation is in the residential real estate business. We own over 3,000 rental units.

We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We question whether the Commission has the authority to require us to allow the physical invasion of our property. We must retain the authority to control the use of our property, for several reasons.


First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial -- the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antennas bolted to the outside walls and railings of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight or wind resistance of a satellite and the quality of installation may create maintenance problems and -- more importantly -- a hazard to the safety of residents, building employees, and passers-by. damage to the property caused by water seepage into the building interior, corrosion of metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

Third, the technical limitations of satellite technology create problems because all of our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain areas, thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,

  
Barbara Bernstein  
Vice President  
Property Management

No. of Copies rec'd 0  
List ABCDE

REC  
APR 16 1996  
FCC

SEVEN OAKS II HOMEOWNERS ASSOCIATION  
Post Office Box 7388  
Fairfax Station, Virginia 22039

April 12, 1996

DOCKET FILE COPY ORIGINAL

Ms. Rosalee Chiara  
Office of the Secretary of  
Federal Communications Commission  
Washington, D.C. 20554

Re: Telecommunications Act of 1996  
Proposed Rule Regarding Nongovernmental Restrictions on  
Receipt by Individuals of Video Programming Services  
IB Docket No. 95-59

Dear Ms. Chiara:

This letter is for the purpose of registering the objection  
of our Association to the proposed Rule promulgated by the FCC on  
March 11, 1996, which states:

No restrictive covenant, encumbrance,  
homeowner association rule, or other non-  
governmental restriction shall be enforceable  
to the extent that it impairs a viewers  
ability to receive video programming services  
over a satellite antennae less than one meter  
in diameter.

Our homeowners association is composed of 47 attached  
townhomes. The membership approved an Architectural Guideline  
which permits satellite dishes of 24 inches or less in diameter  
within the community subject to the discretion of our Covenants  
Committee regarding matters of location, placement, and  
aesthetics. If the FCC's proposed rule is adopted, the very  
purpose of our community association will be adversely affected.  
By virtue of our community vote, it is clear that our membership  
does not wish any of its members to have the kind of unfettered  
right to install satellite dish technology that the FCC's  
proposed rule would sanction. We find it hard to believe that  
this is what Congress had in mind when it passed the  
Telecommunications Act of 1996.

Very truly yours,

BOARD OF DIRECTORS OF  
SEVEN OAKS II HOMEOWNERS ASSOCIATION

By: Juan R. Cardenas  
Juan R. Cardenas

JRC:ahs

cc: The Honorable John Warner, U.S. Senate  
The Honorable Tom Davis, House of Representatives

H:\WPDATA\CLIENT\19\19432\960411.LTR

No. of Copies rec'd  
List ABCDE

0

RECEIVED

APR 16 1996

FCC ROOM

The Council of Co-Owners of  
The Meadows of Newgate  
6100 Strasburg Drive  
Centreville, Virginia 22020

April 15, 1996

Ms. Rosalee Chiara  
Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Telecommunications Act of 1996  
Proposed Rule Regarding Non-Governmental  
Restrictions on Receipt by Individuals of Video  
Programming Services  
IB Docket No. 95-59

Dear Ms. Chiara:

This letter is for the purpose of expressing our Community Association's strong objection to the proposed rule promulgated by the FCC on March 11, 1996, which states:

No restrictive covenant, encumbrance, homeowner association rule, or other non-governmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming services over a satellite antenna less than 1 meter in diameter.

Our Community Association has an architectural control procedure which has been established by the protective covenants of record. They are part of every member's chain of title, and they must be disclosed to each contract purchaser as a matter of law. If the contract purchaser does not wish to be bound by the terms and conditions of the architectural covenants, they have the legal right to rescind their contract within a statutorily designated period of time.

We are very concerned about the FCC's proposed rule because it invades and impairs our freely entered legal arrangements with respect to the use of our properties. The overwhelming majority of owners in our community want architectural controls to be enforced to protect the community's aesthetic environment. In our Community Association, which consists of attached townhomes, a satellite dish of 1 meter in certain locations would be entirely inappropriate from an aesthetic standpoint. We strongly request that the FCC note our following objections:

1. Preemption. We strongly believe it is entirely inappropriate for the FCC to take Congress' general grant of authority in the Telecommunications Act and assume the broadest conceivable application of the statute. Based upon the text of the

No. of Copies rec'd  
List ABCDE

Ms. Rosalee Chiara  
April 15, 1996  
Page 2

RECEIVED  
APR 16 1996  
FCC

statute, it is certainly not clear to us that Congress intended to empower the FCC to usurp the power of community associations to enforce architectural controls voluntarily accepted by members of the Association.

2. Size, Location and Appearance. Aside from the legal question as to whether or not the FCC has the power to impair the obligation of our pre-existing protective covenants, we strongly urge the FCC to acknowledge the difference between private and public property use restrictions. We strongly believe that community associations should be afforded greater latitude to regulate the size, location and appearance of satellite receptors. We believe that it stands to reason that certain types of satellite dishes, without reasonable regulation, will negatively affect the exterior appearance and values of townhomes in our community. One of the main purposes of our Association is to reasonably regulate architectural changes to the homes in order to protect the exterior appearance and values of the townhomes in our community.

3. Common Areas v. Lot Installation. The rules should be amended to expressly clarify that the FCC does not allow a homeowner to install a satellite dish in the common areas of community associations. The common areas, as opposed to the individual lots owned by the members, are owned in common by all of the owners.

4. Exemptions. At the very least, we respectfully suggest that the Secretary should consider a revision of the rule to exempt existing community associations from the application of the new rule. We believe the rule should apply only to new communities that have not yet been created. This would allow the developers of those communities to accommodate these satellite dish structures in the design of the community and to include legal provisions in the protective covenants which are consistent with the FCC's rule.

Thank you for your consideration of these matters.

Very truly yours,

BOARD OF DIRECTORS  
THE COUNCIL OF CO-OWNERS OF  
THE MEADOWS OF NEWGATE

cc: The Honorable John Warner, U.S. Senate  
The Honorable Frank Wolf, House of Representatives

APR 1 1996  
FCC  
Eugene and Judith S. Bellin  
383 O street SW  
Washington, DC 20024

Office of the Secretary  
Federal Communications Commission  
Washington, DC 20554

April 4, 1996

Re: IB Docket 95-59; FCC 96-78

DOCKET FILE COPY ORIGINAL

DOCKET FILE COPY ORIGINAL

Dear Sir or Madam:

We are writing to comment on FCC's proposed rulemaking revising section 25 -- Satellite Communications. It would prevent enforcement by a homeowners association such as ours to enforce its rules restricting placement of a visible encumbrance such as a DBS antenna less than one meter in diameter. We urge you not to implement this proposal.

We are members of River Park Mutual Homes, Inc., a Cooperative Housing development in Southwest Washington. Our development, built in the early 1960's, consists of two 8-story buildings, containing efficiencies, 1- and 2-bedroom units, and 134 townhouses. It is an award-winning architectural complex designed by a renowned architect, Charles Goodwin. One feature of his distinctive and distinguished architectural design is the uniform appearance of the outer shell of the buildings. Thus, our Members' Rules state that window coverings must be non-patterned and white or off-white. Moreover, members may not use balconies for storage.

The members of our Cooperative so value its appearance that they spend about \$40,000 each year on grounds plantings and trees. And many individual members help to maintain the well-groomed appearance of our grounds. And last year the Cooperative started a program (it will cost about \$500,000 ) to restore exterior surfaces to their original condition.

The FRN (p. 10711, col.2) states "the presumption in favor of small antennas can be rebutted only by health or safety concerns." FCC did not weigh aesthetic considerations, or the rights and ability of owner/investors to enjoy the fruits of, and to recoup their investment. We suggest that the infringement on the aesthetics of our property is of economic concern to the members of a homeowners association such as River Park (ourselves included), and to the District of Columbia at large. The infringement of the aesthetics of our community will certainly negatively impact our (already limited) ability to sell units in Southwest DC.

Respectfully,

*Eugene Bellin*

*Judith Bellin*  
Eugene and Judith S. Bellin

att.

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

RECEIVED

APR 16 1991

FCC



BY JAMES M. THRESEMER—THE WASHINGTON POST

A resident of River Park says the co-op's design, with all the units facing each other, encourages social interaction.

### Where We Live

## Cosmopolitan Meets Up With Quaint In Southwest D.C.'s River Park Co-op

By Kate Moore

Washington Post Staff Writer

A touch of the suburbs in the city. That's how many residents of River Park see their Southwest Washington neighborhood.

"It's the best of outdoor and indoor living within a city dwelling," said Coralee Farlee, who moved into an O Street town home in 1980.

Farlee, 65, and her husband, Bernard Goldstein, bought a three-bedroom town home for \$65,000. Residents who work in the District can take the Waterfront Metro stop on the Green Line or can walk to nearby Capitol Hill.

Another convenience about the neighborhood is "you can make it to the Kennedy Center in 10 minutes for a performance," Fredrica Kramer said.

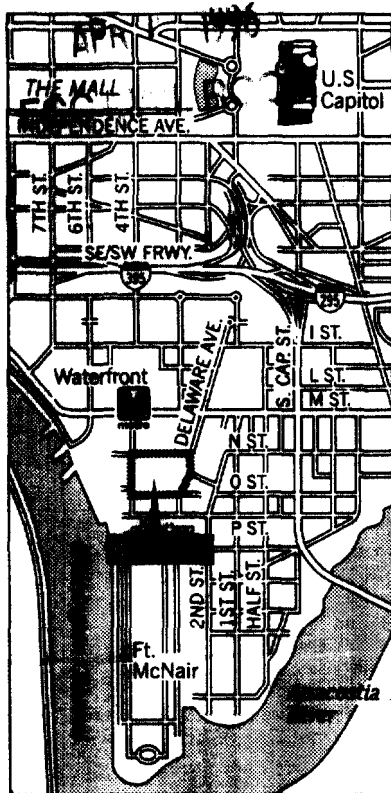
She and her husband, Michael Keane, bought their four-bedroom River Park town home in 1979 and are raising their 6-year-old son, Teddy, there. Kramer, a social welfare policy analyst, said "one of the many reasons we bought here is because River Park is a co-op and owner occupied."

"It functions like a small town and because all of the units face each other and it forces social contact," she added.

Farlee said, "It's a quiet, attractive and affordable area in the city." She said she also likes the convenience of the various downtown shops, as opposed to a large suburban mall. "I encourage all of my friends to shop in the city, instead of the suburbs," she said. An active member in the neighborhood, Farlee said she and her husband plan to stay there for good.

The efficiency apartment units range from \$20,000 to \$30,000, the one- and two-bedroom apartments are priced from \$30,000 to \$60,000 and the town homes range from \$60,000 to \$90,000. There

See RIVER PARK, E15, Col. 7



BY DAVE COOK—THE WASHINGTON POST

# River Park's Waterfront Views in D.C.

## RIVER PARK, From E1

units available: three efficiencies, 13 one-bedroom units, six two-bedroom units, and five town homes, said Shari Barton, an associate broker with Prudential Preferred Properties.

The community is bounded by N Street SW to the north, O Street to the south, Fourth Street to the west and Delaware Avenue to the east.

River Park has about 1,000 residents, most of them from 30 and 60 years old, living in the 518 units, including 134 town houses and twin high-rises with 384 apartment units, all part of the overall cooperative.

It was the first residential complex to be built in the early 1960s during the Southwest Urban Renewal project, just south of M Street. The community is a self-managed corporation with a board of directors and 10 standing committees to deal with various community issues.

The residents are racially diverse and include a mixture of government employees, teachers, writers and members of the foreign service. "It has a flavor of New York City, a real diverse community with a cosmopolitan feel," Kramer said.

Martin Forrester, a former Foreign Service officer, said one of the reasons he chose River Park in 1987 is because his mother was one of the original owners. Moreover, he said, "I liked the architectural style, especially the barreled-shaped roofs, which gives it a quaint appearance."

After living in a one-bedroom apartment in River Park, Forrester in 1991 bought a town home on Fourth Street for \$125,000. At 61, Forrester is director of the international affairs department of Service Employees International Union.

"One of my favorite things to do is to walk along the waterfront and around Fort McNair," said Forrester, who is a member of the community's board. "It's an affordable, racially balanced neighborhood in an ideal setting."

Betsy and Walter Hobby have lived in their three-bedroom town home on O Street since 1962, where they raised two children. Betsy Hobby, 68, is a retired economist with the Department of Energy.

"We wanted to stay in the city and knew that Southwest was being redeveloped. After reading articles about the area, which sounded affordable, we decided to buy a town home," she said.

Among the many things the Hobbys like about living there is "that it's accessible to public transportation and you don't need a car to live here," Betsy Hobby said. "It's also a quiet place. Even though we live near the airplane route, you don't have the air traffic noise from National Airport."

An active member in the community, Betsy Hobby serves on the Southwest Affairs Committee, which keeps members aware of what's going on in other parts of Southwest. "There's a real sense of community within this splendid location where you are able to walk to museums and take part in the Washington area. It's very user-friendly," she said.

In 1983, when Glenn Harke decided to move in with a friend at River Park, he thought it would be short-term. Ten years later, Harke decided to buy a place of his own. He and his dog, Zak, now live in a \$73,000 town home on Fourth Street.

Harke, 44, works for Westat Inc., a social research company in Rockville. "Commuting is a pleasure. I get to drive on the George Washington Parkway every day and enjoy the view of the area, especially this time of year," he said. "It usually takes 30 to 40 minutes to get to work. Ninety-nine percent of the time, it's a lovely drive."

Harke attributes meeting most of his friends from his walks with Zak. "The people are friendly and congenial [and they] watch out for each other. I'd highly recommend River Park to others because we can always use more nice neighbors," he said.

RECEIVED

APR 16 1996

FEDERAL COMMUNICATIONS COMMISSION

4200 CATHEDRAL UNIT OWNERS' ASSOCIATION

4200 Cathedral Avenue, N. W.

Washington, D. C. 20016

April 15, 1996

Office of the Secretary  
Federal Communications Commission  
Washington D.C. 20554

DOCKET FILE COPY ORIGINAL

In re IB Docket No. 95-<sup>59</sup>~~90~~, Preemption of Local Zoning Regulation of Satellite Earth Stations,  
FCC 96-78.

Gentlemen:

I am president of the 4200 Cathedral Unit Owners' Association of Washington D.C. Our Association represents 182 condominium owners and approximately 300 total inhabitants.

On Sunday, April 14 I received our first notification of your proposed rules governing "non-governmental restrictive covenants" which may "impair a viewer's ability to receive video programming." Presumably, the proposed new regulation will vitiate current condominium regulations precluding our residents and owners from mounting one-meter satellite dishes in their bedroom and living room windows in order to enhance their ability to receive video programming.

Ours is a 40-year old high-rise condominium constructed of concrete and steel. Our restrictions on the installation of window antennae, either one-meter dishes or multi-pronged conventional TV antennae, were designed to prevent damage to the building structure as residents attempted to bolt their dishes and devices to concrete window sills, as well as to eliminate the danger to other residents when poorly mounted units break loose in the 80- to 100-mile-per-hour winds of summer thunderstorms and hurricanes that are common in the Washington D.C. area.

We believe the intent of the Act should be to protect the interests of the owners/residents, and not the to feed the larval greed of media purveyors who will benefit from the proliferation of one-meter TV dishes and other devices.

We respectfully suggest that the Commission should consider the practical safety aspects of the proposed regulation striking down the right of the owners' own association to govern the safety and security of our condominium.

Certainly we support and would enjoy the ability to receive a wider range of TV services, by satellite or otherwise. But to trample due process and ban all safety and security of their buildings is unconscionable.

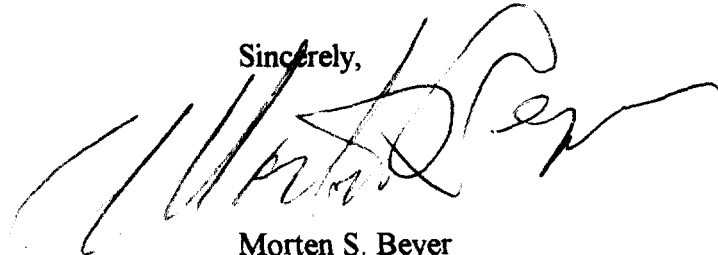
No. of Copies rec'd. 0  
List NR008



An acceptable alternative for buildings such as ours would be the installation of a single, user-financed satellite dish on the roof of the building with common access.

We urge you to give our views due consideration, and not cram one-meter multiple satellite dishes down our throats.

Sincerely,

A handwritten signature in black ink, appearing to read 'Morten S. Beyer', with a large, sweeping flourish extending to the right.

Morten S. Beyer  
President

RECEIVED  
**Bryan Properties**  
Box 9122  
Springfield, MO 65801  
FCC MAIL ROOM 303

April 10, 1996

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

Re: Preemption of Local Zoning Regulation of Satellite Earth Stations, IB Docket No. 95-59

Dear Mr. Caton:

We write in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). We enclose six (6) copies of this letter, in addition to this original.

Bryan Properties is in the residential real estate business. We have several hundred units in the Springfield, Missouri area.

We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We question whether the Commission has the authority to require us to allow the physical invasion of our property. We must retain the authority to control the use of our property, for several reasons.

First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial - the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antennas bolted to the outside walls and railings of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight or wind resistance of a satellite and the quality of installation may create maintenance problems and -- more importantly -- a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion of metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

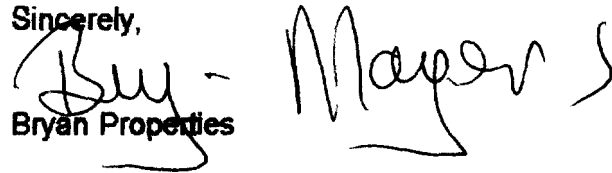
Third, the technical limitations of satellite technology create problems because all of our residents may not be able to receive certain services. It is our understanding that satellites are only

No. of Copies rec'd 0  
List ABCDE

positioned in certain areas, thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Mayer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryan Properties

RECEIVED

APR 16 1996

FCC MAIL ROOM

# **J.S. Proctor Company**

Property Management Commercial Real Estate

4/10/96

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: Preemption of Local Zoning Regulation of Satellite Earth Stations, IB Docket No. 95-59

Dear Mr. Caton:

We write in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). We enclose six (6) copies of this letter, in addition to this original.

**The J.S. Proctor Company is in the residential real estate business. We manage over 2,700 apartments.**

We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We question whether the Commission has the authority to require us to allow the physical invasion of our property. We must retain the authority to control the use of our property, for several reasons.


First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial – the appearance if a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antenna bolted to the outside walls and railings of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight of wind resistance of a satellite and the quality of installation may create maintenance problems and – more importantly – a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion of metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

Third, the technical limitations of satellite technology create problems because all of our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain areas, thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,

  
John S. Proctor, Jr.  
President

No. of Copies rec'd \_\_\_\_\_  
List ABCDE

IB 95-59



# CITY OF EDWARDSVILLE

690 S. 4th St. P. O. Box 13243  
Edwardsville, Kansas 66113  
(913)441-3707 Fax(913)441-3805

RECEIVED

APR 16 1996

DOCKET FILE COPY ORIGINAL

FCC MAIL ROOM

April 15, 1996


Office of Secretary, FCC  
Washington, DC 20554

I just this date received the notice that your department was considering exempting satellite dish antenna from local zoning regulations.

My objection is that we are a small community (4,000 population) covering approximately 12 square miles and I have had many problems of installers placing these dishes too close to property lines as well as installing them on poles to get above neighboring objects. Also, there is nothing more unsightly that a 9' to 12' dish sitting in a front yard or too close to a neighbor. It would be appreciated if you would rethink your ruling and allow our small city to not be over run with these objects.

Please reply.

Respectfully,

  
Gene S. Waggoner  
Code Enforcement/  
Public Officer

GSW/11

cc: File

No. of Copies rec'd 0  
List ABCDE

RECEIVED

APR 16 1996

FCC MAIL ROOM

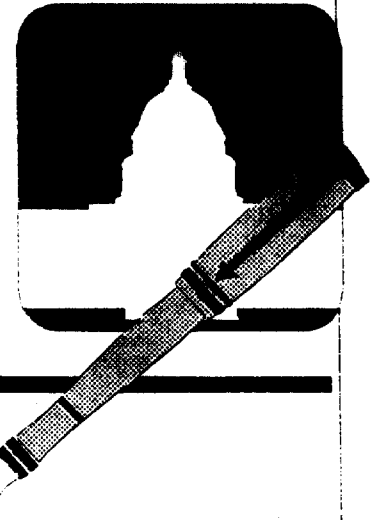
## Senate Passes Ethics Bill

After many hours of working Sub HB 3000 in the Senate Elections Committee, the Senate passed a significantly scaled down substitute. The original bill was 56 pages long and contained lobbying and ethics requirements for local governments. The current bill, Senate Substitute for Substitute for HB 3000, is 13 pages long and does not contain any of the onerous local government provisions. The House has not yet taken action on the Senate substitute, but is expected to do so when the Legislature reconvenes for the veto session.

## FCC Reg Preempts Local Zoning Authority Over Satellite Dishes

The FCC has issued a new rule which would preempt much local zoning authority over satellite dishes. Zoning ordinances for dishes over one meter in residential areas or two meters in commercial areas would be preempted unless the local entity demonstrates a clearly defined health, safety or aesthetic objective. Zoning ordinances for dishes of one meter or less in residential areas and two meters or less in commercial areas would be completely prohibited. Petitions for reconsideration of the preemption order (FCC 96-78 in Docket 95-79) are due by April 17, 1996, and should be addressed to: Office of the Secretary, FCC, Washington, D.C. 20554.

## Summaries of Legislation of Municipal Interest

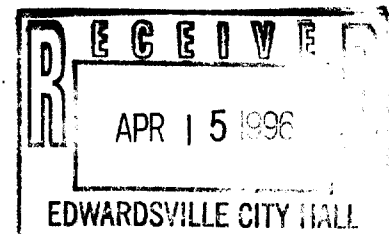


The letters "SB" or "HB" at the beginning of each bill number and summary indicate whether the bill is a "Senate Bill" or a "House Bill." The first letter of "S" or "H" at the end of each summary shows whether the bill is in a senate or a house committee. Senate bills in a house committee and house bills in a senate committee have passed the house of origin. The letters following an "S" or "H" show the committee in which the bill is located, according to the committee abbreviation table in this bulletin.

The notation at the very end of each summary e.g. (1/12/96-DM) indicates the date the summary was completed and the initials of the person summarizing the bill.

### SENATE BILLS

**SB 756. Railroad Rights -of-Way; Lease Payments by Cities.** By S,WM. Amends K.S.A. 12-612a to provide that whenever a railroad company leases a right-of-way to a city for street or utility purposes, the railroad may not require an annual lease payment in excess of \$20. To S,LG. (4/9/96 - KG)





# DRUCKER & FALK

Realtors® - Since 1938

2926 WARWICK BLVD., NEWPORT NEWS, VA. 23607 - (804) 245-1541 FAX (804) 244-1974

APR 16 1996

FCC MAIL ROOM

April 12, 1996

Mr. William F. Canton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: Preemption of Local Zoning Regulation of Satellite Earth Stations -  
IB Docket No. 95-59

Dear Mr. Caton:

We write in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). We enclose six (6) copies of this letter, in addition to this original.

Drucker & Falk is in the a commercial and multi-family real estate business. We manage/own in excess of 17,000 apartment units across the south east region. We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We questions whether the Commission has the authority to require us to allow the physical invasion of our property. We must retain the authority to control the use of our property, for several reasons.

First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial -- the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antennas bolted to the outside walls and railing of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight or winds resistance of a satellite and the quality of installation may create maintenance problems and -- more importantly -- a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion or metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

Third, the technical limitations of satellite technology create problems because of all our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain area, thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,  
Drucker & Falk

*Trenda S. Robertson*

Trenda S. Robertson  
VA Regional Director

No. of Copies rec'd  
List ABCDE

0

Regional Offices in Arlington, Virginia; Atlanta, Georgia; Newport News, Virginia; and Raleigh, North Carolina

COMMERCIAL SALES & LEASING • RESIDENTIAL AND COMMERCIAL PROPERTY MANAGEMENT • PROPERTY DEVELOPMENT • INSURANCE

Hampton  
Roads  
Apartment and  
Management  
Association

P. O. Box 1658  
Newport News, Virginia 23601  
(804)872-2258

RECEIVED  
APR 16 1996  
FCC MAIL ROOM

April 12, 1996

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton  
Acting Secretary  
Federal Communication Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

RE: Preemption of Local Zoning Regulation of Satellite Earth -  
IB Docket No, 95-59

Dear Mr. Caton:

We write in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). We enclose six (6) copies of this letter, in addition to this original.

Drucker & Falk is in the a commercial and multi-family real estate business. We manage/own in excess of 17,000 apartment units across the south east region. We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We questions whether the Commission has the authority to require us to allow the physical invasion of our property. We must retain the authority to control the use of our property, for several reasons.

First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial -- the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antennas bolted to the outside walls and railing of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

0



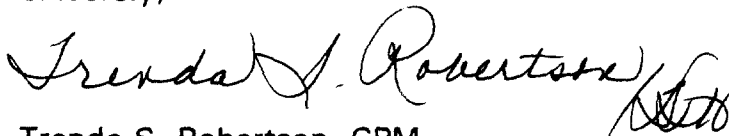
Mr. William Caton  
Page Two  
April 12, 1996

Second, the weight or winds resistance of a satellite and the quality of installation may create maintenance problems and -- more importantly -- a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion or metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

Third, the technical limitations of satellite technology create problems because of all our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain area, thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,



Trena S. Robertson, CPM  
President HRAMA  
Employed by Drucker & Falk

Raine Sydnor  
Vice President HRAMA  
Employed by G.E. Capital

Bill Halprin  
Treasurer HRAMA  
Employed by S.L. Nusbaum Realty Co.

Wes Newcomb  
Chairman of Education & Maintenance HRAMA  
Employed by Drucker & Falk

No. of Copies rec'd \_\_\_\_\_  
List ABCDE